Questionnaire on deprivation of liberty of women and girls

The Working Group on the issue of discrimination against women in law and in practice will present a thematic report on women deprived of liberty to the 41st session of the Human Rights Council in June 2019. This report will be produced in the context of the Working Group focus on key areas affecting the human rights of women and girls and will aim at reasserting women’s right to equality and countering rollbacks in this area,

In this regard, the Working Group would like to seek inputs from States and other stakeholders to inform the preparation of this report in line with its mandate to maintain a constructive approach and dialogue with States and other stakeholders to address discrimination against women in law and practice,

The Working Group intends to take a comprehensive approach to the issue by including various forms of restriction or interference with women’s personal liberty or movement by state and non-state actors, including on the basis of their sex and prescribed gender roles. Thus, deprivation of liberty of women and girls can manifest in a variety of settings, ranging from detention in penitentiary institutions to different forms of forced confinement, because of decisions by authorities, families, communities or private groups. The report will examine the causes, nature and extent of the deprivation of liberty of women and girls, with particular attention to the impact of multiple and intersecting forms of discrimination against women and girls. In answering the questions below, please also highlight the following crosscutting issues: a) any good practices you may have identified in addressing the causes and extent of deprivation of liberty of women and girls; b) the main developments in law or practice in the past five years; and c) the main challenges within your country or region in tackling the issue.

I. Justice system

1. What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the types of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.

* In my opinion the principal cause leads women to come into conflict with the law is poverty. Poverty has driven a lot of women from their villages into cities where there is the absence of family and communal spirit. Cities in Ghana now appear to operate on each one for himself, God for us all mantra. And even a place to sleep is a major difficulty for a lot of people. And in desperation to eke a living some women find themselves engaging in drugs and things like prostitution which is still a crime in Ghana.
* The most vulnerable group is the urban, uneducated women.
* Prostitution, battery, assault.

1. Please indicate if there are cases of women facing detention in relation to civil law suits and identify the particular groups of women mostly affected.

* To my knowledge not. This has been made possible by the Supreme Court Decision in Martin Kpebu V Attorney General in which all civil matters were decriminalized.

1. What are the main challenges for women’s access to justice, including, for example, the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?

* Essentially, it is about resources. Litigation is very expensive in Ghana and because it is also adversarial it is very difficult to prosecute without money. It is even more serious when it is a criminal matter in which the might of the state through the Attorney General and the State is against a person with or little resources.

1. What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non- custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)?

* Even though I don’t know the figures, recent comments in the media by the top echelons of the Ghana Prison Service indicates that the prison population in general and that includes women is on the rise.

II. Other institutions

1. What other institutions outside the justice system exist in your country wherein women and girls are institutionalized on grounds such as care, correction, protection and prevention against potential harms, etc.? Please list the groups of women and girls who are most concerned in each situation.

* The Ark Foundation
* The Justice for All Program

2. Please explain the decision-making process for the institutionalization of women and girls in each situation, including the role of women and girls themselves in the decision on institutionalization. Please highlight any good practices in terms of enabling women to exercise agency within institutional systems, with due respect to their rights?

* In the first institution mentioned above, shelter is provided for women who have suffered violence.

III. Forced confinement in private contexts

1. What forms of forced confinement of women and girls exist in a private or social context sanctioned by family, community or group of individuals such as abduction, servitude, guardianship and “honor” practices, trafficking, home detention, “witch camps”, widowhood rites, etc.?

* Even though the Trokosi System has been criminalized once in a while there is a discussion in the media that it is being practiced underground by families
* The witches camp continue to exist in the Northern Part of the country.

1. Please identify the groups of women and girls who are most affected by these situations.

* Virgin girls
* Widowed women and women who have reached their menopause

1. What is the role of law and policy (including customary law and authorities) in your country concerning these types of confinement?

Legislatively most of these confinements have been criminalized. However, most of the customary laws we have in our country appear to accept or accommodate such kind of practices,

IV. Migration and crisis situations

1. What are the specific risks of detention and confinement encountered by women on the move in the context of asylum seeking, internal displacement and migratory processes?

* That is not a serious problem in Ghana. There are no internally displaced people in Ghana.

2. What is the policy relating to the administrative detention of women migrants including pregnant women and women with children?

* There is no administrative detention of migrants in Ghana. Indeed, in Ghana migrants and refugees are encouraged to integrate into the society.

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